

Why choose mediation?

It works. Nearly two-thirds of the disciplinary matters mediated by SMCS mediators result in a mutually satisfactory settlement.

It's quick. SMCS mediators are generally available within two to three weeks of a request. Completing a formal hearing and decision process can take months.

The parties have more control.

Mediation allows parties to control the outcome. Any agreements made must be mutually agreeable to the parties. Any State Personnel Board (SPB) appeal that goes to a formal hearing is in the hands of an administrative law judge who writes a recommended decision that is subject to confirmation by the Board.

Creative and flexible solutions. In mediation, creative solutions to disciplinary issues are possible, provided that both sides are willing. Transfers, reassignments, severance, "last chance agreements," employee assistance, and modification of penalties are among the many possible outcomes of mediation.

You have nothing to lose. SMCS mediation is confidential and off-the-record. Any offers of settlement made in mediation cannot be disclosed to an administrative law judge later on if there is no agreement to settle. Neither party waives any rights to pursue the matter to a hearing, if there is no agreement in mediation.

State Mediation & Conciliation Service

1515 Clay Street, Suite 2206
Oakland, CA 94612

May 2010

State Employee Discipline Mediation



SEDM
***A Process to Settle
Adverse Action Appeals
Without a Formal Hearing***

**California State Mediation
& Conciliation Service**

Mediation: A Quick, Effective Tool

Is my case suitable for mediation?

If you are willing to compromise, work for a settlement or look for creative solutions to the problem, then you should try mediation.

Who are the mediators?

State Mediation and Conciliation Service (SMCS) mediators are neutral, impartial state professionals whose roles are to maintain the structured mediation process while helping parties work out an agreement. Mediators do not solve the problem for the parties, nor do they impose their views on the issue. But they bring to the table their years of experience and knowledge of discipline and grievance issues.

The SMCS employs twelve mediators throughout California. They are all highly skilled professionals who have extensive experience in the use of mediation to solve labor-management problems.

To request mediation, please contact:

State Mediation & Conciliation Service
1515 Clay Street, Suite 2206
Oakland, CA 94612

Phone (510) 873-6465
Fax (510) 873-6475
Email smcsinfo@dir.ca.gov

How does it work?

The State Employee Discipline Mediation (SEDM) program is a voluntary, confidential, problem-solving process where parties have an opportunity to discuss the issue and work out a mutually satisfactory agreement.

Typically, the parties set aside a half day for mediation. Mediation can take place prior to the SPB's scheduling and settlement conference. Or it can take place in the weeks leading up to the formal SPB hearing.

In mediation, some time is spent all together, and some time is spent separately with the mediator. The mediator will carry offers of settlement from one party to the other. In some cases, the mediator will make suggestions for settlement. The goal is a written settlement agreement that both parties sign off on.

The mediation can take place at the employer's premises or at a mutually agreeable neutral location. The mediator will travel to the agreed-upon site.

Can I bring a representative with me to mediation?

Both the employee and the department are free to bring attorneys to the mediation table, but it is not always necessary. Employees are also free to bring a union representative or other representative of their choice.

What if we cannot reach agreement in mediation?

If you do not settle in the mediation process, you may continue your case to a hearing in front of an SPB Administrative Law Judge. No offers of settlement made in mediation are admissible in a formal hearing.

What if I want to pursue mediation and the other side doesn't?

Mediation is a completely voluntary process. Both parties must agree to mediate in order for it to take place.

What is the cost, and who pays?

SMCS charges \$115 an hour for this SEDM service. The cost is paid for by the employee's department or agency.

